

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

VICTORIA HUTCHESON

PLAINTIFF

v.

Civil No. 05-5184

DR MULLINS and
NURSE SUE McDONALD

DEFENDANTS

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

The defendants filed a motion to dismiss (Doc. 12) in this civil action on the basis that the plaintiff has failed to keep the court informed of his current address as required by Local Rule 5.5(c)(2). This motion is now before the undersigned for issuance of this report and recommendation.

In the motion, defendants state that they attempted to serve the plaintiff with discovery in the form of interrogatories. They mailed this information to the plaintiff on February 22, 2006. On March 27, 2006, defendants sent plaintiff a letter requesting that she submit her discovery responses within 10 days to avoid the defendants filing a Motion to Compel. On April 11, 2006, the defendants received the letter sent March 27 marked "return to sender." (Docs. 12-14.)

Local Rule 5.5(c)(2) provides in part as follows:

Parties appearing *pro se*. It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. (Emphasis added.)

The plaintiff has not notified the court of her current address, and the court has been unable to locate a present place of confinement for the plaintiff. The undersigned notes that the court also has received returned mail that was sent to the plaintiff. (Docket February 16, 2006 and February 23, 2006.)

Therefore, I recommend that plaintiff's complaint be dismissed without prejudice for failure to prosecute and comply with court rules.

The parties have ten days from receipt of this report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely written objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 7th day of June 2006.

/s/ Beverly Stites Jones

HON. BEVERLY STITES JONES
UNITED STATES MAGISTRATE JUDGE